IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 22.08.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice S.MANIKUMAR

Habeas Corpus Petition No.548 of 2006

Chinnapappa ... Petitioner

Vs.

1.The District Magistrate and
District Collector,
Tiruvannamalai District,
Tiruvannamalai.

2.The State of Tamil Nadu, rep. by its
Secretary to Government,
Prohibition and Excise Department,
Fort St. George, Chennai-9. .. Respondents

Petition under Article 226 of the Constitution of India for the issuance of a Writ of Habeas Corpus to call for the records relating to the detention order dated 27.05.2006 passed by the first respondent herein in his office ref.D.O.No.32/2006-C2, quash the same and direct the respondents to produce the petitioner's husband Velu, son of Vedi, Pillaiyar Koil Street, Karapattu Village, Chengam Taluk, Tiruvannamalai District presently undergoing detention in the Central prison, Vellore under Section 3(1) of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982) befoe this Court and set him at liberty.

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For Petitioner : Mr.P.Mani

For Respondents: Mr.M.Babu Muthu Meeran
Addl. Public Prosecutor

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O R D E R

(Order of the Court was made by P. SATHASIVAM, J.)

The petitioner, who is the wife of the detenu by name Velu, who is detained as a ''Bootlegger" as contemplated under Section 3(1) of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982), by the impugned detention order dated 27.05.2006, challenges the same in this Petition.

2. Heard learned counsel for the petitioner as well as the learned Additional Public Prosecutor for the respondents.

3. At the foremost, learned counsel for the petitioner submitted that even though the detenu was arrested on 17.04.2006 with respect to the ground case, the detention order was passed only on 27.05.2006 and in the absence of proper explanation by the person concerned, the unexplained delay in passing the impugned order cannot be accepted. Elaborating the above contention, it is brought to our notice that it is not in dispute that the detenu was arrested on 17.04.2006. The seized contraband was sent to the Regional Forensic Science Lab, Vellore for Chemical Analysis and the sponsoring authority has received the Chemical Analysis Report dated 24.04.2006 even on 25.04.2006. It is also not in dispute that the Doctor, who has given treatment to the complainant Ravi, was also examined on 25.04.2006 with reference to the Chemical Analysis Report. However, the sponsoring authority prepared the Special Report and sent the same to the detaining authority only on 23.05.2006 and finally the detention order was passed on 27.05.2006. There is no explanation by the sponsoring authority for not forwarding the papers to the detaining authority for passing an order under Act 14 of 1982 after getting the Chemical Analysis Report dated 24.04.2006. In the absence of proper explanation, this Court has taken a view that such delay tends to have affect of snapping link between prejudicial activity and passing of preventive order. In such circumstances, in HCP No.266 of 2005 dated 21.06.2005 reported in 2005 (1) MWN (Criminal) 265 (Ramesh Vs. District Collector and District Magistrate, Tiruchirapalli and another), this Court, after finding that there was a delay of five weeks even after receipt of the affidavit from the sponsoring authority for passing the detention order, quashed the order of detention . In fact even prior to the said decision, in HCP No.1149 of 1995 dated 13.12.1995, the Division Bench of this Court accepted the similar contention and quashed the detention order.

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4. In the light of what is stated above, the impugned detention order is liable to be quashed and accordingly, the same is quashed. The Habeas Corpus Petition is allowed and the impugned order of detention is set aside. The detenu is directed to be set at liberty forthwith from the custody unless he is required in some other case or cause.

raa

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The Secretary to Government, State of Tamil Nadu, Prohibition and Excise Department, Fort St. George, Chennai-600 009.

2.The District Magistrate and District Collector, Tiruvannamalai District, Tiruvannamalai.

3. The Superintendent, Central Prison, Vellore.
(In duplicate for communication to detenu)

4. The Joint Secretary to Government, Public (Law and Order)
Fort St. George, Chennai-9.

5.The Public Prosecutor, High Court, Madras.

1 cc to Mr.P.Mani, Advocate, SR.37605

akm (co)

dv/30.8.06

HCP. No.548 of 2006

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